



Family Matters

THE NEWSLETTER OF BERRY FAMILY LAW: AUTUMN 2019

Introducing Radu Catrina



Radu has practised in family law since late 2015, and before that worked in government (ASIC) and general practice. In his time as a family lawyer he has worked on a variety of parenting and property matters, and has had experience as an advocate in both the Federal Family Courts and the State Magistrates' Courts.

Radu understands the unique demands of being a family lawyer and seeks to provide clear and illuminating advice to his clients, in order to empower them to make the best decisions they can for themselves.

In addition to his role as a solicitor, Radu is a contributing member of the LIV Young Lawyers Editorial Committee and Professional Development Committee. He was a Mentor in the LIV Mentoring Program. He has had numerous pieces published in both the LIV Young Lawyers Journal and Young Lawyers Blog.

Outside of work, Radu enjoys attending live music shows and festivals, a variety of sports (in particular martial arts), motorbike riding, and stamp collecting.

Radu's reflections on working at Berry Family Law:

I am passionate about family law and chose to practise in the area because, in my view, it is one of the most critical areas of law. Family law governs fundamental aspects of human life which essentially underpin society. The work we do as family lawyers has far-reaching and significant implications and consequences. I take pride in doing it well and assisting people through what is often a very difficult time.

I am delighted to work for a firm that prides itself on a high standard of work and client service, and to work with colleagues who are dedicated, proficient and eager to assist and help better each other.



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Costs in Family Law

Pursuant to s 117 of the *Family Law Act 1975*, each party to proceedings in family law shall bear their own costs. This is in contrast to other types of civil litigation where the responsibility for costs is assigned following the determination and conclusion of a matter.

There are, however, exceptions to the general principle, and s 117(2A) sets out the matters to which the Court shall have regard in determining whether to make a costs order against a party. These include:

- the financial circumstances of each of the parties;
- the conduct of the parties in relation to the proceedings, including in relation to pleadings, discovery and production of documents, and directions to answer questions and admissions of facts;
- whether the proceedings were necessitated by the failure of a party to comply with previous orders of the Court;
- whether any party has been wholly unsuccessful in the proceedings; and
- whether either party has made an offer in writing to the other party to settle the proceedings, and the terms of such an offer.

Costs that are awarded to be paid by one party by another are known as “party-party costs”, and the rules governing them are set out in the *Federal Circuit Rules 2001* and the

Family Law Rules 2004. Unless the Court orders otherwise, the amounts payable for a party-party costs order are set out in the schedules of the rules.

However, in exceptional circumstances the Court does have the liberty to depart from these scales. Where the conduct of a party warrants it, the Court can award the payment of all costs that the other party reasonably and properly incurred, in what are known as “indemnity costs”. Some examples of where indemnity costs may be awarded include:

- where a party makes false or irrelevant allegations;
- where there is evidence of particular misconduct causing loss of time to the Court and the parties;
- a party unduly prolonging a case with groundless allegations; and
- a party unreasonably refusing an offer to settle.

It is important for litigants to keep these principles in mind at all times, to ensure that they comply with the rules and orders of the Court, and to make pragmatic and economical decisions where possible.

Costs of protracted litigation can exceed tens of thousands of dollars for each party. This can substantially reduce the asset pool available for distribution to the parties at the finalisation of the matter, and this can be further compounded by a costs order.

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